HON'BLE SRI JUSTICE P.S. NARAYANA

Writ Petition No. 10169 of 2005

Date: 26.11.2007

Between:

M/s SPM Telecom,
A partnership concern,
Nacharam, Hyderabad,
Rep. by its Managing Partner Rupender Jain

… Petitioner

and

M/s Bharat Sanchar Nigam Limited (MMS Section),
New Delhi

… Respondent

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O R D E R:

Heard Sri B. Chandrasen Reddy, the learned counsel representing the writ petitioner and Sri P. Bhaskara Mohan, the learned counsel representing the respondent.

2. Rule nisi was issued on 28.04.2005 and in W.P.M.P.No.13194 of 2005, the following order was made:

> " Notice.
>
> Sri P. Bhaskar Mohan seeks time for filing counter.
>
> Post on 14.06.2005.
>
> Pending further orders, there shall be interim direction as prayed for provided the petitioner furnishes an undertaking before the respondent that in case the impugned memorandum is upheld, he will pay the difference of the cost of the products basing on the rate as fixed under the impugned memorandum."

W.V.M.P.No.2288 of 2006 was filed to vacate the interim order.

3. The writ petition is filed for a writ of mandamus to set aside impugned memorandum No.203-22/2005-MMS/242 dated 20.04.2005 in the case of the petitioner, by declaring the same as illegal, arbitrary and unconstitutional.

4. Several facts had been narrated in the affidavit filed in support of the writ petition and in the counter-affidavit filed, while narrating the facts, it is stated that the terms and conditions of the contract specifically envisage that in the event of any question, dispute or difference between the petitioner and the respondent, it should be referred to arbitration or before arbitrator to be appointed by the respondent company. Though several other facts had been narrated, this Court need not express any opinion relating to the merits and demerits of the matter. Liberty is given to the writ petitioner to invoke the arbitration clause, if it is so advised.

5. In the light of the same and also in the light of the nature of the interim order made by this Court, the interim order be vacated. However, with the aforesaid liberty of invoking the arbitration clause, the writ petition is disposed of. No order as to costs.

(P.S. NARAYANA, J)

November 26, 2007

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